

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

AFL-CIO



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WT Docket No. 04-435

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW.
Washington, Dc 20554

Dear Madam Secretary:

The International Brotherhood of Teamsters, Airline Division, representing over 40,000 aviation employees, including flight attendants, pilots, aircraft maintenance technicians and customer service representatives, submits the following comments to the Federal Communications Commission (FCC) regarding the agency's Notice of Proposed Rulemaking for "Facilitating the Use of Cellular Telephones and Other Wireless Devices Aboard Airborne Aircraft" as summarized in the Federal Register (Volume 70, Number 46) on March 10, 2005 (Docket No WT 04-435).

The IBT Airline Division recognizes that both the FCC and the Federal Aviation Administration (FAA) share jurisdiction regarding the use of cellular telephones and other wireless devices aboard aircraft in flight. The FCC's jurisdiction, and the agency's current ban on the use of such devices aboard airborne aircraft, derives from the need to guard against the threat of harmful interference to terrestrial cellular networks. The FAA has jurisdiction over aviation and flight safety, and that agency has similarly banned the use of these devices in flight because of interference to an aircraft's aviation navigation and communications systems. This NPRM speaks to the FCC's jurisdiction only, and does not affect the FAA's ban on cellular phones and other wireless devices aboard airborne aircraft. The lifting of the prohibition against the use of such devices during flight would require independent action by the FAA. Accordingly, we address our comments to the issues raised by the FCC. Should the FAA propose a similar action, we will address more extensive comments to them on our specific concerns regarding the use of these devices in flight.

Provided that it can be **empirically demonstrated** that the use of such technology does not interfere with either terrestrial communications (and with aviation communication and navigation systems), the IBT Airline Division would support the conditional lifting of the ban on non-verbal wireless devices (i.e. other than cellular phones for verbal communication), and the adaptation of technology to permit the **limited** (e.g. wireless internet access and text messaging) **and monitored** use of these devices aboard aircraft in flight. Until such empirical data is available and can be replicated in scenarios that reflect all probable airborne flight conditions and all parameters of wireless device use, however, the FCC ban should remain in place. A similar, if not more stringent, level of scientific evidence with respect to aviation navigation and communication must be demonstrated by the FAA should they too propose lifting their ban on these devices. Both agencies should also demonstrate that the use of cell phone ‘jammers’ would not adversely affect terrestrial communications, and/or aircraft communication and navigation systems. The NPRM fails to mention these devices, or the consequences of their use/misuse in flight.

In proposing to modify the blanket prohibition on airborne cellular use, the FCC seeks comments on “ways to ensure that this can be accomplished without creating the potential for harmful interference to terrestrial cellular networks.” The NPRM further states, “We believe that taking action that will lead to more opportunities for service and less regulation for cellular licensees, yet which guards against harmful interference to terrestrial wireless communications, serves the public interest.” The FCC is putting the cart before the horse. The FCC’s role should not be to “seek comments on ways to ensure” but to mandate standards that **do ensure** that wireless technology use can be accomplished without creating interference to terrestrial cellular networks. Before a lifting of the ban is contemplated, the technology must be demonstrated and proved reliable, and safeguards must be in place to assure that these devices can be used in all circumstances on all aircraft without creating terrestrial interference. One might argue that lifting the ban on cellular phones and other personal electronic devices on airborne aircraft absent proven technology and safeguards to prevent interference with terrestrial communications might result in a greater threat to homeland security (by causing interference with essential ground communications) than the benefits the FCC presumes would be realized from the use of these devices during an airborne emergency.

We have serious concerns with respect to cellular phone use beyond those regarding potential interference with terrestrial and airborne communication and navigation systems, and would urge the FCC (and FAA) to maintain the prohibition against their use in flight. For example, it would be difficult for flight attendants to monitor the use of cell phones in flight, and the potential for conflict between passengers over the annoyance created by the continuous use of a cell phone by one or more

passengers in close proximity could compromise flight safety by increasing disruptive passenger incidents. Conflicts between passengers, and between passengers and flight attendants are particularly troublesome in the post 9/11 environment and should be avoided at all cost. Not only are they dangerous and troublesome of their own accord, these types of conflicts might be initiated deliberately to divert attention from a genuine terrorist threat to the aircraft. Additionally, during in flight emergencies and/or emergency evacuations, the use of cell phones could interfere with the ability of flight attendants to maintain control of the cabin and passengers, thus further endangering lives.

In the synopsis of the NPRM, the FCC states that allowing the use of these devices “has the potential to benefit homeland security, business, and consumers”, and “will benefit public safety and homeland security personnel in need of an air-to-ground communications link in case of an emergency situation.” While we agree that lifting the ban would likely benefit business, we disagree that benefits would necessarily accrue to consumers, particularly those consumers of air travel who might be subject to incessant cell phone communications from one end of the continent to the other, or even from one continent to another. Additionally, and more importantly, we disagree with the assumption that allowing the use of these devices would benefit homeland security. One might just as easily state that the use of these devices would benefit those who would seek to perpetrate terrorist acts. It would be difficult to obtain empirical evidence to support either claim. The existing ban on the use of these devices would not preclude their use by public safety or security personnel (or by passengers and crew, as demonstrated by the events of 9/11) in an emergency. Nor does the existing ban create a deterrent to terrorists, who would hardly refrain from using a cell phone simply because of the FCC ban. In this regard, neither lifting nor maintaining the ban would benefit or adversely effect homeland security. Framing this issue in this manner does little to enhance the FCC’s position or proposal.

We urge the FCC to reconsider its approach to lifting and/or modifying the existing ban. All issues regarding technology, system security, system operation and maintenance, and procedures to be followed in the event of system failure in flight must be addressed before the FCC ban is removed or modified. The IBT Airline Division appreciates the opportunity to comment on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "D Treichler", with a stylized, cursive script.

Don Treichler